

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN OF WASHINGTON

DALE GARCIA and JANA
ARCHAMBEAU, husband and wife,

Plaintiffs,

v.

THOMAS BENENATI and LORETTA
BENENATI, husband and wife and the
marital community thereof; RYAN
LAYTON and JANE DOE LAYTON,
husband and wife and the marital
community thereof; ROBERT INGRAM
and JANE DOE INGRAM, husband and
wife and the marital community thereof;
HEATH YATES and JANE DOE YATES,
husband and wife and the marital
community thereof; MATT NILES and
JANE DOE NILES, husband and wife and
the marital community thereof; STATE OF
WASHINGTON; WASHINGTON STATE
PARKS AND RECREATION
COMMISSION; JOHN and JANE DOES 1-
20 and the marital communities thereof, and
ABC CORPORATIONS 1-10,

Defendants.

No. 3:19-cv-05597-BHS

JOINT STATUS REPORT AND
DISCOVERY PLAN

COME NOW, the Parties and pursuant to Fed.R.Civ.P. 26(f), Western District Local Rule 26(f), and the Court's *Order Re Initial Disclosures, Joint Status Report, Discovery, Depositions & Early Settlement*, Dkt. 5, hereby submit the following *Joint Status Report and Discovery Plan*.

1 1. STATEMENT OF THE NATURE AND COMPLEXITY OF THE CASE.

2 This is a civil matter brought against a Washington State Parks Ranger, his
3 supervisors, and his employing agency. It involves Civil Rights Act excessive use of
4 force and related state law tort claims. It is not complex.

5 2. A PROPOSED DEADLINE FOR THE JOINING OF ADDITIONAL PARTIES.

6 November 29, 2019.

7 3. CONSENT TO MAGISTRATE

8 No

9 4. DISCOVERY PLAN:

10 (A) Initial Disclosures:

11 Initial Disclosures will be exchanged within 14 days of the date of the parties'
12 discovery conference, which occurred on October 15, 2019.

13 (B) Subjects, Timing, And Potential Phasing of Discovery:

14 The parties will propound and conduct discovery on the topics of liability, damages
15 and affirmative defenses. There is no need at present to depart from the usual timing
16 or discovery or to create phasing.

17 (C) Electronically Stored Information:

18 Plaintiff may seek electronically stored information from Defendant State. However,
19 the parties do not anticipate that there is a large volume of ESI. At present there is no
20 need for the entry of a Model Agreement Regarding Discovery of Electronically
21 Stored Information in Civil Litigation.

22 (D) Privilege Issues:

23 Privilege issues may arise and will be dealt with in a routine fashion, including
24 contacting the Court by telephone or by motion if needed.

25 (E) Proposed Limitations on Discovery:

26 The parties do not presently foresee the need to place limits on discovery.

27 (F) The Need For Any Discovery Related Orders.

The parties do not presently foresee the need to enter any discovery related orders.

5. The Parties' Views, Proposals, And Agreements re: Local Civil Rule 26(f)(1):

(A) Prompt Case Resolution:

The parties will discuss prompt case resolution.

(B) Alternative Dispute Resolution:

The parties are amenable to alternative dispute resolution

(C) Related Cases:

None.

(D) Discovery management:

The parties will cooperate in making discovery efficient and less expensive and will seek conferences with the Court if needed. We have elsewhere sought a streamlined pre-trial statement and order.

(E) Anticipated discovery sought;

The parties will propound written discovery and take depositions.

(F) Phasing motions:

The parties may file certain motions to attempt to facilitate early resolution.

(G) Preservation of discoverable information:

There are no preliminary issues in this regard.

(H) Privilege issues:

The parties will follow Fed.R.Evid. Rule 502(b).

(I) Model Protocol for Discovery of ESI; and;

While this case may involve some ESI, the parties at present do not anticipate the need for the Model Protocol.

(J) alternatives to Model Protocol.

Not applicable.

1 6. The date by which discovery can be completed.

2 90 days before trial.

3 7. Whether the case should be bifurcated by trying the liability issues before the damages
4 issues, or bifurcated in any other way.

5 Defendant reserves the right to seek bifurcation for issues, or parties, or both.

6 8. Whether the pretrial statements and pretrial order called for by Local Civil Rules 16(e),
7 (h), (i), and (k), and 16.1 should be dispensed with in whole or in part for the sake of economy.

8 The parties request that the Court dispense with all requirements of the pre-trial
9 statements and order, except for the witness lists and exhibit lists.

10 9. Any other suggestions for shortening or simplifying the case.

11 None.

12 10. The date the case will be ready for trial.

13 October 1, 2020

14 11. Whether the trial will be jury or non-jury.

15 Jury

16 12. The number of trial days required.

17 Five

18 13. The names, addresses, and telephone numbers of all trial counsel.

19 For Plaintiffs:

20 Mark Leemon
21 Leemon + Royer, PLLC
22 403 Columbia Street, Suite 500
23 Seattle, WA 98104
Tel: 206-269-1100

24 Thomas B. Vertetis
25 Pfau Cochran Vertetis Amala, PLLC
26 911 Pacific Ave. Ste. 200
Tacoma, WA 98402
Tel: 253-777-0799

27 For Defendants:

1 Stewart A. Estes and Jeremy W. Culumber
2 Keating, Bucklin & McCormack, Inc., P.S. 801 Second Avenue, Suite 1210
3 Seattle, WA 98104
4 Phone: (206) 623-8861

5 14. The dates on which the trial counsel may have complications to be considered in setting
6 a trial date.

7 Plaintiffs:

8 2020: May 5-May 19; June 16-June 20; July 21 – October 1; December 1-25

9 2021: February 1- March 20

10 Defendants:

11 August 17 to September 4, 2020

12 November 17 to December 11, 2020

13 15. Service.

14 All parties have been served or have accepted service.

15 16. Whether any party wishes a scheduling conference before the Court enters a scheduling
16 order in the case.

17 No

18 17. The date(s) that each and every nongovernmental corporate party filed its disclosure
19 statement pursuant to Fed. R. Civ. P. 7.1 and Local Rule 7.1.

20 Not applicable.

21 DATED: October 15, 2019

22 KEATING, BUCKLIN & McCORMACK, INC., P.S.

23 By: /s/ Stewart A. Estes

24 Stewart A. Estes, WSBA #15535

25 Jeremy W. Culumber, WSBA #35423

26 Special Assistant Attorneys General for Defendants

27 Thomas Benenati And Loretta Benenati, Ryan Layton

Ingram, Heath Yates and Jane Doe Yates, Matt Niles

1 and Jane Doe Niles, State Of Washington, And
2 Washington State Parks And Recreation Commission

3 801 Second Avenue, Suite 1210

4 Seattle, WA 98104

5 Phone: (206) 623-8861

6 Fax: (206) 223-9423

7 Email: sestes@kbmlawyers.com

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LEEMON + ROYER

/s/ Mark Leemon

Mark Leemon, WSBA #5005

Counsel for Plaintiff

403 Columbia St., Ste. 500

Seattle, WA 98104

(206) 269-1100

leemon@leeroylaw.com

CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2019, by prior agreement, I electronically served the foregoing to the following:

Attorneys for Plaintiffs

Mark Leemon, WSBA #5005
Leemon + Royer, PLLC
403 Columbia Street, Suite 500
Seattle, WA 98104
Tel: 206-269-1100
Fax: 206-269-7424
Email: leemon@leeroylaw.com
diane@leeroylaw.com

Attorneys for Plaintiffs

Thomas B. Vertetis, WSBA # 29805
Pfau Cochran Vertetis Amala, PLLC
911 Pacific Ave. Ste. 200
Tacoma, WA 98402
Tel: 253-777-0799
Fax: 253-627-0654
Email: tom@pcvalaw.com
jeanne@pcvalaw.com

DATED: October 15, 2019

/s/ Stewart A. Estes

Stewart A. Estes, WSBA #15535
Special Assistant Attorney General for
Defendants
801 Second Avenue, Suite 1210
Seattle, WA 98104
Phone: (206) 623-8861
Fax: (206) 223-9423
Email: sestres@kbmlawyers.com